IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 30843 of 1998

Between:

K.R Lingam S/o Narsimhloo, aged about 42 years,
Occ: Ex-Conductor, E.No.301654, R/o H.No. 9-1-34/75, Bapunagar , Lungerhouse , Hyderabad

..... PETITIONER

AND

1 The Presiding Officer, Labour court -I
Chandravihar,Hyderabad,

2 The Depot Manager, A.P.S.R.T.C.,
Mehdipatnam Depot, Hyderabad

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari by quashing the Award passed by the 1st respondent in I.D.No. 110/94 dt. 30-12-95 published on 10-4-96 in so far as not granting the relief of continuity of service, back wages, attendant benefits and other service benefits and consequently declare the same as illegal, unjust, contrary to law and principles of natural justice and in violation of Art.14, 16 and 21 of the Constitution of India and further declare the petitioner is entitled to all the benefits stated above in the interest of justice.

Counsel for the Petitioner:MR.P.SRIDHAR RAO

Counsel for the Respondents: None appeared

The Court made the following :

O R D E R:

This Writ Petition is filed against an award passed by the Labour Court-I, Hyderabad in I.D.No.110 of 1994 dated 30.12.1995, in so far as denying the relief of continuity of service, back wages and attendant benefits to the petitioner while ordering reinstatement afresh by setting aside the removal order passed by the 2nd respondent –management.

The petitioner while conducting the service bus of the corporation on 24.7.1993 was checked by the officials of the corporation and he was found to have committed certain cash and ticketed irregularities and as such a charge memo was issued and thereafter regular charge sheet was issued. An Enquiry Officer was appointed and after giving opportunity to the petitioner to participate in the proceedings and also following the procedure as contemplated under the rules and regulations of the corporation, the final order was passed on 18.11.1993 removing the petitioner from service.

Aggrieved by the same, the petitioner has filed appeal before the Divisional Manager and the same was dismissed on 26.5.1994. Further, the petitioner filed review before the Regional Manager and the same was also dismissed on 19.9.1994. Ultimately, the petitioner filed a petition under Section 2-A(2) of Industrial Disputes Act (for short 'the Act') before the Labour Court-I, Hyderabad.

On elaborate hearing of both the parties and after looking into the record available with it, came to the conclusion that though the charges were proved against the petitioner, the quantum of punishment was disproportionate to that of the mis-conduct and as such set aside the removal order and directed fresh appointment of the petitioner as a conductor without continuity of service, back wages and other attendant benefits. This award of the Labour Court is under challenge.

I am of the considered opinion that the Labour Court itself has taken a lenient view in the matter and passed relief of fresh appointment which in fact, in the given circumstances of the case, the petitioner does not deserve. Having not

satisfied with the award, the present petition is filed.

The charge framed against the petitioner is as under:

> " For having re-issued the tickets 041/009472 to 009473 of Rs.1.25 E-2 and 051/467387 to 389 of Rs.2.75 E-3 collecting 0.75 ps E-5 from the five passengers found alighting at Peddamangalaramand and travelled from Moinabad ex-stages 16 to 17 which constitutes misconduct under Reg.28(xxiii) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963."

The Labour Court after evaluation of the entire evidence before it noticed that from Ex.M-1, M.2, M.4, M.7, M.12 and M.15, it has proved beyond doubt that the petitioner/workman had collected five tickets from the alighting passengers at stage No.16 and issued the said tickets to the five passengers who boarded the bus at stage No.16 and were bound to stage No.17. This is in fact a serious mis-conduct committed with preponderance. However, the Labour Court has taken lenient view in the matter.

The learned counsel for the petitioner states that the checking official have not collected any independent evidence nor recorded the statement of any passenger and the statements were collected from un-connected passengers under threat and further the spot explanation was taken by the checking officials under threat of insubordination. Thus, all factual aspects were gone into by the Labour Court and gave a finding that the petitioner had collected five tickets from alighting passengers and re-issued.

Therefore, I am of the considered opinion that the petitioner does not deserve any further relief as prayed for and the award of the Labour Court does not suffer any infirmity or illegality and accordingly the Writ Petition is liable to be dismissed.

Accordingly the Writ Petition is dismissed. No costs.

8th October 2004

BCS

To

1 The Presiding Officer, Labour court -II
Chandravihar,Hyderabad,

2 The Depot Manager, A.P.S.R.T.C.,
Mehdipatnam Depot, Hyderabad

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